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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,463	07/23/2003	Richard Brea	OCC.US.1	1462
24111	7590	03/29/2006	EXAMINER	
MESMER & DELEAULT, PLLC 1 NEW HAMPSHIRE AVE. SUITE 125 PORTSMOUTH, NH 03801			HENDERSON, MARK T	
			ART UNIT	PAPER NUMBER
			3722	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/604,463	BREA, RICHARD
	<b>Examiner</b> Mark T. Henderson	<b>Art Unit</b> 3722

– The MAILING DATE of this communication appears on the cover sheet with the correspondence address –  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### **Status**

- 1) Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### **Disposition of Claims**

- 4) Claim(s) 1-22 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-17 and 20-22 is/are rejected.
- 7) Claim(s) 18 and 19 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### **Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 July 2003 is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### **Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### **Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 7/23/03.
- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_.

## **DETAILED OFFICE ACTION**

### **Faxing of Responses to Office Actions**

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the “securing means” as stated in Claims 18 and 19 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

2. Claim 1 recites the limitation "the community" in line 4; and "the households" in line 11. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 4, 7 and 8, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Jordan (3,964,195).

Jordan discloses in Fig. 1-3, a method of operating a calendar business comprising the steps of: obtaining event information (Col. 3, lines 40-51); receiving paid advertising (Col. 3, lines 10-13); producing a calendar containing event information, advertising (Col. 2, lines 45-59); and distributing the calendar to households (Col. 1, lines 65-68); wherein none of the advertising is competitive (since advertising is from an “individual or institution” (Col. 1, lines 30-35); wherein a community is capable of being an institution (defined in Webster’s Dictionary as “an established organization”) such a home association, wherein the members are part of the community and managed by a community administrator.

In regards to **Claims 1, 2, 4**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to include any type of event and advertising information on the calendar, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate, it will not distinguish the invention from the

prior art in terms of patentability. The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an end user with a specific type of information document or form does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Therefore, it would have been obvious to place any type of event and advertising information on the calendar, since applicant has not disclosed the criticality of having particular informational indicia, and the invention would operate equally as well with any type of indicia related to the end user.

4. Claims 14-18, and 20-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Durand (6,039,355).

Durand discloses in Fig. 1-6, a multi-part calendar comprising: a first calendar page (22) having titles (32a); a second calendar page (24) having titles (32b); an information page (34a in Fig. 2) corresponding to titles (44); and a message page (34b which is the page on the right hand side) having various sections; wherein the calendar pages are arranged on over the other when the calendar is displayed (however, all pages are not seen at the same time); a securing means (binding means) for removable securing the calendar to a surface (binder spine); and further having other miscellaneous pages (seen by index tabs). It is also inherent for a binder covers to display indicia.

In regards to **Claims 14-17, 20 and 22**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have any desirable indicia on the

calendar pages and cover, since it would only depend on the intended use of the assembly and the desired information to be displayed. Further, it has been held that when the claimed printed matter is not functionally related to the substrate, it will not distinguish the invention from the prior art in terms of patentability. The fact that the content of the printed matter placed on the substrate may render the device more convenient by providing an end user with a specific type of calendar document or form does not alter the functional relationship. Mere support by the substrate for the printed matter is not the kind of functional relationship necessary for patentability. Therefore, it would have been obvious to place any type of indicia on the calendar pages and cover, since applicant has not disclosed the criticality of having particular calendar pages, and the invention would operate equally as well with any type of indicia on the calendar pages.

In regards to **Claim 21**, it would have been obvious to construct the calendar in any desirable size, since such a modification would have involved a mere change in the size of a component. A change in size is generally recognized as being within the level of ordinary skill in the art. Therefore, it would have been obvious to construct the calendar in any desirable size, since applicant has not disclosed the criticality of having a particular size dimension (width, thickness, height), and invention would function equally as well in any desirable size dimension.

***Allowable Subject Matter***

5. Claims 3, 5, 6, 9-13 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
  
6. Claims 15, 18, and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Parent et al, Wilen, Hockensmith, Ferdon, Dubner et al, Spinner, Ngan, Colvin, Almo, Nakajima, Kim, Kim ('211), North et al, Ede et al, Bury, Reece et al, Malcolm et al, Grant, Bussiere, Stratton et al, Pazicni, Martin, and Damg disclose similar calendars.

**Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Boyer Ashley, can be reached at (571) 272-4502. The formal fax number for TC 3700 is (571) 273-8300.



MTH

March 12, 2006



**BOYER D. ASHLEY  
SUPERVISORY PATENT EXAMINER**